

**In re: MICHAEL J. MENDENHALL.
PACA-APP Docket No. 97-0008.
Order Lifting Stay filed April 27, 2000.**

Eric Paul, for Respondent.
Stephen P. McCarron, Washington, DC, for Petitioner.
Order issued by William G. Jenson, Judicial Officer.

On November 10, 1998, I issued a Decision and Order: (1) concluding that Michael J. Mendenhall [hereinafter Petitioner] was responsibly connected with Mendenhall Produce, Inc., during the period of time that Mendenhall Produce, Inc., violated the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §§ 499a-499s) [hereinafter the PACA]; and (2) subjecting Petitioner to the employment and licensing restrictions provided under sections 4(b) and 8(b) of the PACA (7 U.S.C. §§ 499d(b), 499h(b)). *In re Michael J. Mendenhall*, 57 Agric. Dec. 1607 (1998).

On January 28, 1999, the Acting Chief of the PACA Branch, Fruit and Vegetable Division, Agricultural Marketing Service [hereinafter Respondent], filed Respondent's Request for a Stay Order, requesting a stay of the November 10, 1998, Order pending the outcome of proceedings for judicial review, which I granted. *In re Michael J. Mendenhall*, 58 Agric. Dec. 681 (1999) (Stay Order).

Petitioner filed a petition for review with the United States Court of Appeals for the Ninth Circuit on January 7, 1999. Subsequently, Petitioner filed a motion to withdraw his petition for review. Based upon Petitioner's motion to withdraw his petition for review, the United States Court of Appeals for the Ninth Circuit dismissed Petitioner's petition for review. *Mendenhall v. United States Dep't of Agric.*, No. 99-70040 (9th Cir. March 20, 2000) (Order).

On March 28, 2000, Respondent filed Respondent's Request to Lift Stay Order. On March 29, 2000, the Hearing Clerk served Petitioner with Respondent's Request to Lift Stay Order. Petitioner failed to file a response to Respondent's Request to Lift Stay Order within 20 days after service as required by section 1.143(d) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.143(d)). On April 27, 2000, the Hearing Clerk transmitted the record of this proceeding to the Judicial Officer for a ruling on Respondent's Request to Lift Stay Order.

Proceedings for judicial review are concluded. Therefore, Respondent's Request to Lift Stay Order is granted; the Stay Order issued on January 28, 1999, *In re Michael J. Mendenhall*, 58 Agric. Dec. 681 (1999) (Stay Order), is lifted; and the Order issued in *In re Michael J. Mendenhall*, 57 Agric. Dec. 1607 (1998), is effective, as follows:

Order

Petitioner Michael J. Mendenhall was responsibly connected with Mendenhall Produce, Inc., during the period of time that Mendenhall Produce, Inc., violated the PACA. Accordingly, Petitioner Michael J. Mendenhall is subject to the employment and licensing restrictions provided under sections 4(b) and 8(b) of the PACA (7 U.S.C. §§ 499d(b), 499h(b)).

This Order shall become effective 65 days after service on Petitioner.
